

18269

BOOK 1537 PAGE

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ASSIGNMENT AND ASSUMPTION AGREEMENT

Record and Return to:
 Riker Danzing Scherer Hyland & Perretti LLP
 Headquarters Plaza
 One Speedwell Avenue
 Morristown, New Jersey 07962-1981
 Attn: Victoria A. Morrison, Esq.

KNOW ALL MEN BY THESE PRESENTS THAT

TOYS "R" US-DELAWARE, INC., a Delaware corporation, successor in interest by name change to Toys "R" US, Inc. having an address at One Geoffrey Way, Wayne, New Jersey 07470 ("Assignor"),

for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid by

VNO TRU Frederica Street LLC, a Delaware limited liability company, having an address, at 888 Seventh Avenue, 44th Floor, New York, New York 10019 ("Assignee"),

receipt whereof is hereby acknowledged by Assignor, does hereby sell, assign, transfer and deliver to Assignee, effective as of October 16, 2006 ("Effective Date"), all of Assignor's right, title and interest in and to that certain lease agreement as set forth on Schedule 1 attached hereto and hereby made a part hereof (the "Lease") and those ancillary agreements thereto as set forth on Schedule 2 attached hereto and made a part hereof (the "Ancillary Documents"), which Lease is for that certain demised premises more particularly described on Exhibit A attached hereto and made a part hereof (the "Demised Premises") and is evidenced by that certain Memorandum of Lease dated September 19, 1995 and recorded on September 27, 1995 in Official Records Book 653, Page 471, in the Public Records of Daviess County, Kentucky.

TO HAVE AND TO HOLD the same unto Assignee its successors and assigns from and after the Effective Date, subject to all of the terms, covenants and conditions of the Lease and the Ancillary Documents and the Restriction set forth on Exhibit B annexed hereto.

In consideration for the execution and delivery of this Agreement and for other good and valuable consideration, Assignee does hereby accept this assignment and does hereby expressly assume and agree to perform, observe and abide by all of the terms, covenants, conditions and obligations of the Lease and the Ancillary Documents on the part of Assignor to be kept, observed and performed from and after the Effective Date.

Assignor shall defend (with counsel reasonably acceptable to Assignee), indemnify and hold harmless Assignee from and against all liability, claims, suits, demands, judgments, costs, expenses, interest and reasonable attorney's fees (including, without limitation, those incurred to enforce this indemnity) which Assignee may suffer or incur as a result of or in connection (i)

with the breach by Assignor prior to the Effective Date, of any of the terms, covenants or conditions of the Lease, the Ancillary Documents or any other instrument to which the Lease and/or the Ancillary Documents is/are subject and subordinate, and (ii) prior to the Effective Date, Assignor's (A) use of the premises demised to Assignor under the Lease (the "Demised Premises") or common areas relating to or used in connection with the Demised Premises (the "Common Areas"), (B) occupation of the Demised Premises and/or the Common Areas, (C) development of the Demised Premises and/or the Common Areas, (D) management of the Demised Premises and/or the Common Areas, and/or the (E) assignment, subletting or other transfer or conveyance of Assignor's interest in the Demised Premises.

Assignee shall defend (with counsel reasonably acceptable to Assignor), indemnify and hold harmless Assignor from and against all liability, claims, suits, demands, judgments, costs, expenses, interest and reasonable attorney's fees (including, without limitation, those incurred to enforce this indemnity) which Assignor may suffer or incur as a result of or in connection with (i) the breach by Assignee on or subsequent to the Effective Date, of any of the terms, covenants or conditions of the Lease, the Ancillary Documents or any other instrument to which the Lease and/or the Ancillary Documents is/are subject and subordinate, and (ii) on or subsequent to the Effective Date, Assignee's (A) use of the Demised Premises or the Common Areas; (B) occupation of the Demised Premises and/or the Common Areas; (C) development of the Demised Premises and/or the Common Areas; (D) management of the Demised Premises and/or the Common Areas and/or the (E) assignment, subletting or other transfer or conveyance of Assignee's interest in the Demised Premises.



This Agreement shall be binding on and shall inure to the benefit of Assignor, Assignee and their respective successors and assigns. This Agreement shall be governed by the law of the state where the Demised Premises is located without application of conflict of laws principles.

This Agreement may be executed in separate counterparts, each of which when so executed shall be an original, but all counterparts shall together constitute one and the same document, and all signatures need not appear on any one counterpart.

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IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed by their respective officers as of the Effective Date.

| | |
|-----------|--|
| ASSIGNOR: | TOYS "R" US-DELAWARE, INC., a Delaware corporation |
| | By:  |
| | Name: Michael L. Tumolo |
| | Title: Vice President - Real Estate Counsel |
| ASSIGNEE: | VNO TRU FREDERICA STREET LLC, a Delaware limited liability company |
| | By: VNO Surplus 2006 LLC, as sole member |
| | By: Vornado Realty L.P., as sole member |
| | By: Vornado Realty Trust, its general partner |
| | By:  |
| | Name: Alan J. Rice |
| | Title: Secretary |

mail to:
This instrument prepared by:
Joseph T. Fennim
Joseph T. Fennim
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7167

State of New York)
) ss.:
County of New York)

On the 13 day of October in the year 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Alan J. Riva, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

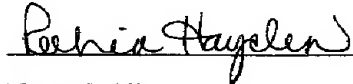
ILONA JACQUELINE WILLIAMS
NOTARY PUBLIC
State of New York
No. 01-WI604438
Qualified - Richmond County
Commission Exp. July 3, 2010

State of New Jersey, County of MORRIS SS:

I certify that on October 16, 2006, Michael L. Tumolo, personally came before me and this person acknowledged under oath, to my satisfaction, that:

(a) this person signed and delivered the attached document as Vice President-Real Estate Counsel of Toys "R" Us-Delaware, Inc., a corporation of the State of Delaware, named in this document; and

(b) this document was signed and delivered by Toys "R" Us-Delaware, Inc. as its voluntary act and deed by virtue of authority from its Board of Directors.



Notary Public
My Commission Expires:
(SEAL)

Robin A. Hayden
A Notary Public of New Jersey
My Commission Expires
December 15, 20 10
Cert. No. 2338177

**SCHEDULE 1
THE LEASE**

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1. Lease Agreement dated September 19, 1995, by and between Owensboro Town Center LLC (or its predecessor-in-interest), Landlord, and Toys "R" Us - Delaware, Inc. (or its predecessor-in-interest), Tenant.
2. Memorandum of Lease dated September 19, 1995.
3. Notice of Assignment and Sublease dated February 4, 1996.
4. Commencement Agreement dated April 2, 1996.

SCHEDULE 2

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THE ANCILLARY DOCUMENTS

1. Non-Disturbance Agreement between Protective Life Insurance Company, as Mortgagee and Toys "R" Us - Delaware, Inc. (or its predecessor-in-interest) as Tenant, dated September 19, 1995 and recorded September 27, 1995 in Official Records Book 653, Page 515.

EXHIBIT A **BOOK 1537 PAGE 12**
DEMISED PREMISES

Owensboro (#8932)
CHI 3627495v.2

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See Exhibit "B" of Memorandum of Lease recorded in Deed Book 653, Page 471 in the Office of the County Clerk of Daviess County, Kentucky.

Less & excepting those portions of the property conveyed by deed of record in Deed Book 735, Page 854 and Deed Book 813, Page 448.

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EXHIBIT B
RESTRICTION

Owensboro (#8932)
CHI 3627495 v.2

Restrictive Covenant BOOK 1537 PAGE 15

Neither the property assigned, nor any portion thereof, shall be used primarily as either:

- (i) a modern toy store, or
 - (ii) a modern babies', infants', juvenile's or children's specialty store,
- from the date of this instrument through the Termination Date (as defined herein).

On the Termination Date for each of (i) and (ii), the effected clause shall expire and be null and void.

The Termination Date shall mean the earliest of:

- (a) the thirtieth (30th) anniversary of the date of this instrument;
- (b) (A) for the restriction in clause (i) on the date on which if Seller and/or its parent or any affiliate, subsidiary, related entity, mortgagee or successor-in-interest by merger or consolidation is no longer engaged in the retail business of operating modern toy stores in the Area of Dominant Influence (as such term is commonly used in the retail industry) where the restricted property is located, and (B) for the restriction in clause (ii) on the date on which if Seller and/or its parent or any affiliate, subsidiary, related entity, mortgagee or successor-in-interest by merger or consolidation is no longer engaged in the retail business of operating modern baby specialty stores in the Area of Dominant Influence where the restricted property is located; and
- (c) the foreclosure or transfer in lieu of foreclosure of the interest in the Property being assigned by this instrument by a mortgagee or holder of a deed of trust secured by such interest.

Notwithstanding anything to the contrary contained herein, if any tenant leasing any portion of the restricted property has the right, on the date of this instrument, to engage in the restricted uses, the exercise of such rights, as they exist on the date of this instrument, by such tenant shall not be a violation of this restrictive covenant.

Restrictive Covenant
Owensboro, KY (8932)
NY1 5960411v.1

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INDEXED FOR RECORD
J. Campbell